REMARKS

Claim 1 is amended. Claims 22-25 are added. Claims 6-21 are canceled without prejudice or disclaimer. No new matter is added by these amendments. Claims 1-5 and 22-25 are pending. By amending and canceling the claims, applicant is not conceding that the claims are non-statutory under 35 U.S.C. 101, 102, 103, and 112 and is not conceding that the claims are unpatentable over the references cited by the Office Action, as the claim amendments are only for the purpose of facilitating expeditious prosecution. Applicant respectfully reserves the right to pursue the subject matter of the claims as it existed prior to any amendment or cancellation and to purse other claims in one or more continuation and/or divisional applications. Applicant respectfully requests reconsideration and allowance of all claims in view of the amendments above and the remarks that follow.

Claim Rejections under 35 U.S.C. 101

Claims 12-16 are rejected under 35 U.S.C. 101 because the claims are "directed towards what could be interpreted as printed matter." Claims 12-16 are canceled without prejudice or disclaimer, so the rejections are moot.

Claim Rejections under 35 U.S.C. 102

Claims 1-21 are rejected under 35 U.S.C. 102(b) as anticipated by Fawcett (U.S. Patent No. 5,845,077). Applicant respectfully submits that the claims are patentable over Fawcett because Fawcett does not teach or suggest all elements of the claims for the reasons argued below.

Claim 1 recites: "receiving data from a client upon an occurrence of an event, wherein the data comprises a plurality of fields, and wherein the event is selected from a group consisting of installation of hardware at the client, installation of software at the client, detection of a performance problem at the client, and detection of an error at the client."

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In contrast to claim 1, in Fawcett at column 2, lines 10-13, the user merely "connects to the bulletin board and then selects and down-loads desired software" and at column 2, lines 26-29, the user merely "is allowed to access ... an update service." Thus, the Fawcett user connection and access is not done in response to installation of hardware, installation of software, detection of a performance problem, or detection of an error, so Fawcett does not teach or suggest "receiving data from a client upon an occurrence of an event, wherein the data comprises a plurality of fields, and wherein the event is selected from a group consisting of installation of hardware at the client, installation of software at the client, detection of a performance problem at the client, and detection of an error at the client," as recited in claim 1.

Claim 1 further recites: "comparing a subset of the plurality of fields to a plurality of thresholds via a plurality of conditions, wherein the plurality of conditions specify the subset, specify a comparison of the plurality of thresholds to values in subset of the plurality of fields, and specify an associated recommended offering."

In contrast to claim 1, Fawcett at column 7, lines 29-33 merely describes "The service update application compares the user inventory data from the user computer to database entries in the computer software database to automatically analyze the computer software." Thus, Fawcett does not describe conditions, thresholds, or a recommended offering associated with a condition, so Fawcett does not teach or suggest "comparing a subset of the plurality of fields to a plurality of thresholds via a plurality of conditions, wherein the plurality of conditions specify the subset, specify a comparison of the plurality of thresholds to values in subset of the plurality of fields, and specify an associated recommended offering," as recited in claim 1.

Claim 1 further recites: "when the plurality of conditions are met by the comparing of the values in the subset of the plurality of fields to the plurality of thresholds, sending the associated recommended offering and an identification of a marketing channel to the client."

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In contrast to claim 1, Fawcett at column 2, lines 37-42 recites: "The comparison is conducted to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc)." Also in contrast to claim 1, Fawcett at column 7, lines 53-55 recites: "After the service update application completes the analysis of user computer software, a summary report is sent back to the user." Also in contrast to claim 1, Fawcett at column 8, lines 26-29 recites: "if the output report is not empty, then the user is asked to choose which available computer software shown in the output report, if any, will be downloaded and installed on the user computer." But, Fawcett does not describe any criteria for determining the contents of its summary report and does not describe any relationship between its summary report and its comparison of its user inventory data to its database entries.

Thus, Fawcett does not teach or suggest a "recommended offering" as recited in claim 1 because Fawcett does not make recommendations and has no criteria for making recommendations. Instead of making recommendations, Fawcett relies on the user to "choose which available computer software" to download and install and Fawcett merely "identif[ies] software ... that might be appropriate" not software that is recommended because "the plurality of conditions are met by the comparing of the values in the subset of the plurality of fields to the plurality of thresholds," as recited in claim 1. Thus, Fawcett does not teach or suggest "when the plurality of conditions are met by the comparing of the values in the subset of the plurality of fields to the plurality of thresholds, sending the associated recommended offering and an identification of a marketing channel to the client," as recited in claim 1.

Claim 1 further recites: "the subset of the plurality of fields of the data comprises a trend at the client, wherein the trend comprises a rate of growth of consumption of a resource at the client and an estimated time period until the resource is constrained."

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In contrast to claim 1, Fawcett at column 1, lines 24-28 recites: "The computer hardware and operating system environment on which the computer software is used is continually being changed, which requires additional changes in the computer software (e.g. new device drivers, new operating system calls, etc.)," and Fawcett at column 1, lines 50-52 recites: "Fixes are also provided to allow the software product to function correctly on a new computer or with a different operating system environment."

Thus, Fawcett merely recognizes that a computer hardware and operating system environment can change and that change requires changes or fixes to software. But, the Fawcett change has no time period or rate, so Fawcett does not teach or suggest that a "trend comprises a rate of growth of consumption of a resource at the client and an estimated time period until the resource is constrained," as recited in claim 1.

Claim 1 further recites: "sending a notification to the marketing channel, wherein the notification comprises a request to receive information regarding why the recommended offering was made," which is not taught or suggested by Fawcett because Fawcett does not send a recommended offering, so the Fawcett user would not have a reason to request why an offering was recommended.

Claims 2-5 and 22-25 are dependent on claim 1 and are patentable over Fawcett for the reasons argued above, plus the elements in the claims. Claims 6-21 are canceled without prejudice or disclaimer, so the rejections are moot.
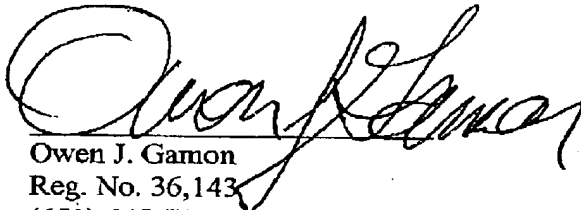
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Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is requested. The Examiner is invited to telephone Applicant's attorney (651-645-7135) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0465.

Respectfully submitted,

Date: May 7, 2008

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CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being transmitted to the Commissioner for Patents via facsimile, to 571-273-8300, on May 7, 2008.

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